



C.R.P.(PD).No.2848 of 2022 &
C.M.P.No.15421 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.2848 of 2022 &
CMP.No.15421 of 2022

C.Annamalai

... Petitioner

-Versus-

1.Senthil @ Senthilkumar
2.L.Govindhammal

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to number the rejection of plaint petition dated 29.07.2022 under Order VII Rule 11 of Code of Civil Procedure in O.S.No.22 of 2022 by the District Munsif Court at Vandavasi.

For Petitioner : Mr.T.V.G.Kartheeban

For Respondent 1 : Mr.K.Thirumavalavan

For Respondent 2 : No appearance

ORDER

This Civil Revision Petition arises against the return of the rejection of plaint petition filed by the civil revision petitioner in CFR No.1000 dated



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29.07.2022.

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2. The petitioner before me is the first defendant in the suit. The first respondent herein, namely Senthil @ Senthilkumar, had presented O.S.No.22 of 2022 for the relief of declaration of his title and for consequential injunction and also sought for the relief that the document standing in the name of the first defendant to be declared as null and void and for an injunction restraining the first defendant not to alienate the suit property.

3. In the said suit, though the summons were originally served, the defendants remained exparte. Thereafter, the first defendant/civil revision petitioner took out an application to reject the plaint in CFR.No.1000 on 29.07.2022. The said application was returned by the learned District Munsif, Vandavasi on the ground that since the defendant was set exparte, the petition for rejection of plaint is not maintainable.

4. While considering the application for rejection of the plaint, all that the court does is go through the plaint and find out if it is barred under any of the provisions of Order VII Rule 11. While considering the application for rejection of the plaint, the defence that has been taken by the defendant is neither essential nor necessary. The plaint can be rejected at any stage, if the grounds are made out before the rendering of judgment. This is clear from a



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plain reading of Order VII rule 11.

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5. The learned District Munsif seems to be under the impression that a defendant who is set exparte is not entitled to move an application under the said provision. By setting a person exparte, all that the court does is preclude the said defendant by putting in his defence to the suit. In other words, if the defendant is set exparte, he cannot let in his own evidence, but he is always entitled to cross examine the plaintiff and hence, get the suit dismissed.

6. When the position of law states otherwise, to hold that the defendant, having been set exparte, cannot maintain an application under Order VII rule 11, has to be treated as one without jurisdiction. Therefore, the Civil Revision Petition is allowed. The application filed in CRF.1000 dated 29.07.2022 shall be taken on file. No costs. Consequently, connected miscellaneous petition is closed.

7. The learned District Munsif, Vandavasi shall number the application, issue notice to the plaintiff and receive the counter and thereafter, shall proceed with the same in accordance with law.

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Note: Office is directed to the return the original of the petition filed in



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CFR.1000 dated 29.07.2022 to the learned counsel for the petitioner.

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order



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V.LAKSHMINARAYANAN, J.
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To

The District Munsif Court at Vandavasi.

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